

**[ DTI-BOI ADMINISTRATIVE ORDER NO. 01,  
SERIES OF 2018, August 06, 2018 ]**

**IMPLEMENTING RULES AND REGULATIONS OF EXECUTIVE  
ORDER NO. 57, ENTITLED "REDUCING THE RATES OF DUTY ON  
CAPITAL EQUIPMENT, SPARE PARTS AND ACCESSORIES  
IMPORTED BY BOARD INVESTMENTS - REGISTERED NEW AND  
EXPANDING ENTERPRISES"**

*Date Filed: 06 August 2018*

Pursuant to Section 4 of the Executive Order No. 57, the following rules and regulations are hereby promulgated.

**RULE I. DEFINITION OF TERMS**

**Section 1.** For purposes of this rules and regulations, the following definition shall apply:

- (a) "Board" or "BOI" shall refer to the Board of Investments.
- (b) "E.O." shall refer to Executive Order No. 57.
- (c) "Capital Equipment" shall refer to machinery, equipment, major components thereof, tools, devices, apparatus, which are directly and/or reasonably needed in the registered operation of the enterprise.
- (d) "Spare Parts" shall mean the usual components of the capital equipment, which are subject to normal wear and tear arising from use, utilization and operation.
- (e) "Accessories" shall mean any article, other than capital equipment and spare parts, designed to be used in connection with the capital equipment.
- (f) "ASEAN Harmonized Tariff Nomenclature (AHTN)" shall be an 8-digit commodity nomenclature and coding system agreed to be adopted by the ASEAN member countries. The AHTN shall be used as the basis for determining the specific tariff lines for the capital equipment, spare parts and accessories imported by virtue of the E.O.
- (g) "New Registered Enterprises" shall refer to enterprises with registered new project.
- (h) "Expanding Registered Enterprises" shall refer to enterprises with registered expansion project. For this purpose, enterprises with

registered projects under modernization or rehabilitation shall be considered expanding enterprises.

(i) "Date of Acquisition" shall refer to date of the capital equipment, spare parts or accessories were loaded as reflected in the bill of lading date.

## **RULE II. IMPORTATION OF CAPITAL EQUIPMENT, SPARE PARTS AND ACCESSORIES**

**Section 2. *Qualified Activities*** – The activities listed under the Investment Priorities Plan (IPP) prepared by the BOI every three (3) years and duly approved by the President that is in force during the effectivity of the E.O. are qualified under this Rules.

**Section 3. *Qualified Enterprises*** – Enterprises registered with the BOI starting the year 2013, of good standing, with project/s qualified as new or expanding under Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987, may import, at zero percent (0%) duty, capital equipment, spare parts and accessories classified under AHTN chapters 40, 59, 68, 69, 70, 73, 76, 82, 83, 84, 85, 86, 87, 88, 89, 90 and 96 of Section 1611 of the Customs Modernization and Tariff Act (CMTA), as listed in the Annex of this Implementing Rules and Regulations (IRR).

**Section 4. *Conditions for availment of duty free importation.*** Qualified enterprises may import capital equipment, spare parts and accessories subject to the duty stated in the preceding section, provided that the following conditions are met:

(a) The capital equipment spare parts and accessories to be imported are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices.

Capital equipment, spare parts and accessories shall not be considered available in sufficient quantity if they cannot be made available to the qualified enterprises at the time needed or within a reasonable period.

In determining whether quality is comparable, the test, among others, will be whether or not the registered operation will be adversely affected or the resulting product will be of lower quality or the cost of operation will be increased.

In determining reasonableness of the prices quoted by the domestic manufactures, the BOI may be guided by the import cost of such capital equipment, spare parts and accessories to be imported into the Philippines, plus all applicable taxes and duties to be paid thereon, and a fifteen percent (15%) mark-up;

(b) They are reasonably needed and will be used exclusively by the qualified enterprise in its registered activity;

(c) The approval of the BOI was obtained by the qualified enterprise for

the importation of such capital equipment, spare parts and accessories before the shipment will be released by the Bureau of Customs (BOC). Further, the application for importation shall be accompanied by a quotation/proforma invoice in the name of the applicant as consignee to whom the shipment will be released; and

(d) Subject to reasonable allowance, the rated capacity of the capital equipment spare parts and accessories if applicable, to be imported is within the registered capacity of the qualified enterprise.

**Section 5. *Certificate of Authority.*** The qualified enterprise availing of zero percent (0%) duty importation of capital equipment, spare parts and accessories shall submit an application with the BOI. After a thorough evaluation of the application, the BOI shall issue a Certificate of Authority (CA) for importations covered under this E.O. The CA shall include, among others, the registration number and type of registration, date of application and issuance, validity period, quantity and description of the capital equipment, spare parts and accessories to be imported, and the applicable AHTN tariff code.

The BOI shall act on the application within ten (10) working days from its official acceptance. The action of the BOI, whether it be approval or disapproval, shall be communicated in writing to the applicant. A copy of the CA shall be sent to the Office of the Commissioner of BOC.

To ensure proper tariff classification, an applicant may submit an advance ruling issued by the Tariff Commission (TC) on the product/article subject of importation. The BOI may also require an applicant to submit an advance ruling.

**Section 6. *Import Procedures with the DOF and BOC.*** For purpose of release of the shipment, the applicant shall submit to the Department of Finance (DOF) official import documents indicating the description, quantity and price of the capital equipment, spare part or accessories imported, the names of the supplier and carrying vessel and its anticipated or actual date of arrival, together with the CA.

Upon release of the DOF endorsement, the applicant shall file an import entry declaration with the BOC supported by the following documents:

- (1) Commercial Invoice;
- (2) Bill of Lading;
- (3) BOI CA; and
- (4) Such other documents as BOC may require pursuant to laws, rules and regulations as may hereinafter be issued.

The Customs Collector shall verify if the importation falls under the chapters provided under the E.O. and record in the Import Report all pertinent data relative thereto.

In case of disparity on the tariff classification by the applicant and inspection of the importation and determination by the BOC, the dispute shall be submitted to TC for appropriate ruling.